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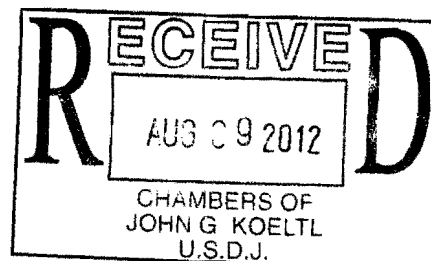
OFFICE OF
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DOCUMENT
ELECTRONICALLY FILED
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DATE FILED: 8/9/12

August 9, 2012



VIA FACSIMILE (212) 805-7912

The Honorable John G. Koeltl
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Indian Harbor Insurance Company v. The City of San Diego
U.S.D.C. S.D. N.Y. Case No. 12CV5787 (JGK)

Request for Extension of Time to Respond to the Complaint

Dear Judge Koeltl:

By way of this letter, the City of San Diego ("City") respectfully requests an extension of time to respond to the Complaint filed on July 27, 2012 against the City in the above referenced case.

The Complaint was served on July 27, 2012. City's response would be due on August 17, 2012. The City requests an extension of 60-days until October 17, 2012. There have been no previous requests for an extension of time to respond to the Complaint. This extension will not affect any scheduled court dates.

On July 30, 2012, I left a message for New York counsel of record requesting additional time to respond to the Complaint and the basis for the request. I traded voice messages with counsel with no resolution of the issue. Several days later I was contacted by San Francisco Duane Morris counsel. In that phone call, I again raised the request for extension of time. No response was received before filing this request.

Good cause exists for the extension. Because this matter is filed out of state, the City Attorney's Office will need to hire counsel from New York. This process may take several weeks. Once the City finds the appropriate law firm, that firm will need time to get up to speed on the issues to offer the City competent legal advice regarding the issues at stake in this matter. Moreover, the City cannot contract or hire outside counsel without the express authority

The Honorable John G. Koeltl

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August 8, 2012

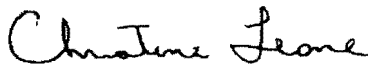
of the City Council for the City of San Diego. The City Council went into legislative recess on the same day the Complaint was served and does not return until mid-September, 2012. Thus, the City is not able to engage New York counsel before the current response date.

This case involves City's insurer requesting a declaration that they do not owe City any indemnity rights for several cases pending in California. City's exposure on those matters could total \$40 million dollars. Thus, the issues raised in this case could significantly affect the City and an extension of time to find competent legal counsel is of the utmost importance.

Based upon the foregoing, the City respectfully requests an extension of time to file a response until October 17, 2012.

Sincerely yours,

JAN I. GOLDSMITH, City Attorney

By 
Christine M. Leone
Chief Deputy City Attorney

CML:ms

cc: Christine Megna Van Gelder
Max H. Stern

The Defendant's time to respond to
the complaint is extended until
Friday, September 28, 2012.

SO ORDERED.

8/9/12

K B. Jones
USDJ, Part 1

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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

DECLARATION OF
SERVICE

Case Name: *Indian Harbor Insurance Company*
v. *The City of San Diego*
Case No.: 12CV5787 (JGK)
Judge: Hon. John G. Koeltl Courtroom 12B

I, the undersigned declare that I am, and was at the time of service of the papers herein referred to, over the age of eighteen years and not a party to the action; and I am employed in the County of San Diego, California, in which county the within-mentioned service occurred. My business address is 1200 Third Avenue, Suite 1100, San Diego, California, 92101.

I served the following document(s):

Letter to the Honorable John G. Koeltl re Extension of Time to Respond to the Complaint

I further declare that I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business. I served the above document(s) in this action by placing the true copies thereof enclosed in a sealed envelope addressed as follows:

Christine Megna Van Gelder
Jessica A. Bohl
Duane Morris LLP
1540 Broadway
New York, NY 10036
Tel. (212) 692-1000
Fax (212) 692-1020
cmvangelder@duanemorris.com
jabohl@duanemorris.com

Attorneys for Plaintiff Indian Harbor Insurance Company

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mhstern@duanemorris.com
jelalonde@duanemorris.com
Attorneys for Plaintiff Indian Harbor Insurance Company

PROOF OF SERVICE

1 [] **(BY MAIL)** I served the individual named by placing the documents in a sealed
2 envelope. I then placed it for collection and mailing with the United States Postal Service
3 this same day, at my address shown above, following ordinary business practices.

4 [] **(BY EMAIL)** Pursuant to agreement between the parties, I served the above listed
5 documents by transmitting via email to the internet address listed above. I did not receive
6 within a reasonable period of time after the transmission any electronic message or other
7 indication that the transmission was unsuccessful.


8 [] **(BY ELECTRONIC SERVICE VIA LEXISNEXIS FILE & SERVE)** On
9 _____, I caused such document(s) to be electronically served through
10 LexisNexis File & Serve for the above-entitled case on designated recipients. Upon
11 completion of said transmission of said documents, a certified receipt is issued to filing
12 party acknowledging receipt by LexisNexis File & Serve. Once LexisNexis File & Serve
13 has served all designated recipients, proof of electronic service is returned to the filing
14 party. This service complies with CCP § 1010.6. The file transmission was reported as
15 complete and a copy of the "LexisNexis File & Serve Transaction Receipt" page will be
16 maintained with the original document(s) in our office.

17 [XX] **(BY FAX)** On August 9, 2012, I transmitted the above-described document by facsimile
18 machine to the listed fax number. The transmission originated from facsimile phone
19 number (619) 533-5856 and was reported as complete and without error. The facsimile
20 machine properly issued a transmission report, a copy of which is attached hereto. [CCP
21 section 1013(e); CRC Rule 2008].

22 [] **(BY OVERNIGHT DELIVERY)** I caused the envelope(s) to be delivered overnight
23 via an overnight delivery service in lieu of delivery by mail to the addressee(s).
24 [CCP section 1013]

25 [] **(BY PERSONAL SERVICE)** I served the individual named by personally
26 delivering the copies to the offices of the addressee.
27 Time of delivery: _____ a.m./p.m. Person served: _____
28

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct. Executed on August 9, 2012, at San Diego, California.



Merlita Sarmiento/
Legal Secretary